

04-654

**IMPLEMENTING AGREEMENT
BETWEEN
THE UNITED STATES FORCES, KOREA
AND
THE REPUBLIC OF KOREA,
MINISTRY OF NATIONAL DEFENSE
CONCERNING
LOGISTICS COST SHARING**

ARTICLE I - AUTHORITY

This Implementing Agreement (IA) is based on the Agreement Between the United States of America (US) and the Republic of Korea (ROK) Concerning Special Measures Relating To Article V of the Agreement Under Article IV of the Mutual Defense Treaty Between the United States of America and the Republic of Korea Regarding Facilities and Areas and the Status of United States Armed Forces in the Republic of Korea (SMA), signed on 4 April 2002.

ARTICLE II - PURPOSE

The purpose of this IA is to define the responsibilities of the United States Forces, Korea (USFK) and the Republic of Korea, Ministry of National Defense (ROK MND) (hereinafter referred to as "the parties") in the execution of the Logistics Cost Sharing (LCS) program. A description of the categories and scope of the LCS program is included as Attachment 1 to this IA. Attachment 1 may be revised by mutual written consent.

ARTICLE III - MUTUAL RESPONSIBILITIES OF THE PARTIES

1. The parties agree that equipment, supplies, and services shall be acquired for the official use of USFK.
2. ROK MND delegates to USFK the authority to solicit for its requirements within the Categories and Scope of the LCS program, negotiate, and present contract draft(s) to ROK MND for signature obligating ROK funds. ROK MND also delegates to USFK, through its designated officials, the sole authority to issue delivery orders, to inspect and accept equipment, supplies, and services, and to determine the contractor's entitlement to payment under the contract. ROK MND retains authority to review and suggest modifications to contract draft(s), and final signature authority after US obligation of any US funds or US government furnished property. USFK retains the authority to sign and join in award of those contracts that obligate US government furnished property.

3. The parties agree that all contractors shall submit billing invoices directly to USFK for certification, USFK shall forward the certified billing invoices to ROK MND Logistics Management Bureau for payment, and ROK MND Defense Procurement Agency (DPA) shall pay the Korean contractors directly. The parties agree billing invoices shall not include payments for US technical representatives or US contract administration personnel, unless specifically agreed to by ROK MND. The parties also agree that billing invoices shall not include ROK taxes.

4. The parties agree that all LCS work must be accomplished in the ROK or adjacent waters and that all equipment and supplies that are to be acquired with ROKG funds shall be manufactured in the ROK, and that all LCS service work shall be carried out by Korean contractor(s), the ROK Office of National Railroads, or the ROK military. USFK shall take delivery of vehicles directly from the Korean contractor(s), who shall provide USFK with a warranty for the vehicles at that time.

5. The executive agent for USFK for all matters affecting the terms and conditions of this IA shall be the Assistant Chief of Staff (ACofS), J4, USFK.

6. The executive agent for the ROK MND for all matters affecting the terms and conditions of this IA shall be the Director General, Logistics Management Bureau, MND.

ARTICLE IV – SPECIFIC RESPONSIBILITIES OF USFK

USFK shall:

1. After finishing negotiations with Korean contractors, sign the contract draft(s). Signature indicates that USFK prepared the draft(s) and recommends award. USFK shall provide ROK MND with five (5) English language copies of each contract draft.
2. Provide ROK MND with three (3) English language copies of certified billing invoices after resolving all disputes, claims, and appeals concerning the interpretation of the contracts and the requirements under the special provisions. USFK shall provide these copies of certified billing invoices to ROK MND within ten (10) days after receiving acceptable billing invoices from the contractor(s).
3. Provide ROK MND with a summation of all billing invoices processed by USFK and forwarded to ROK MND at least once a quarter. Each summation should list the applicable calendar year's program to date.

4. Maximize use of Korean-made supplies for maintenance contracts funded by LCS whenever the Korean supplies meet contract specifications.
5. Make best efforts to ensure work is initiated before 1 October of each calendar year and completed before 31 December of the same year. By 30 November of each year, USFK shall provide ROK MND with written notification of any work initiated under the contract(s) in that calendar year, which is not expected to be completed or invoiced by 31 December of the same year and may require payment(s) after 31 December. Written notification shall include estimates of cost and time of completion, and USFK shall provide ROK MND with written modifications to this estimate as required.
6. Sign logistics cost sharing contract(s) if ROK MND fails to process the contract draft(s) within thirty (30) days after receipt from USFK and the period is not extended by the mutual consent of the parties. However, in the event ROK MND makes objections to USFK within the thirty (30) day period regarding provisions of the contract draft(s), USFK shall not sign the contract draft(s) until the matter is resolved in accordance with Article VIII, Disagreements.
7. Pay any and all costs that exceed the funding allocated to each project in Attachment 2.

ARTICLE V – SPECIFIC RESPONSIBILITIES OF ROK MND

ROK MND shall:

1. Sign contract draft(s) received from USFK and provide three (3) final copies of each awarded contract to USFK.
2. Forward invoices to the MND-designated payment agency for payment only after USFK presents certified billing invoices to the ROK MND Logistics Management Bureau.
3. Remit payment to the contractor(s) within fifteen (15) days of receipt of the certified billing invoices from USFK or as separately agreed to between the ROK MND and the contractor. Payment by ROK MND shall not exceed the funding allocated to each project in Attachment 2. Any separate agreement shall not conflict with or modify the payment provisions specified in this IA, or provisions contained in the contracts or existing MOAs/MOUs.

4. Upon request, provide USFK, ACoS, J4, with a quarterly summation of the status of all vouchers and funds disbursed and a copy of all payment vouchers documenting disbursement to the Korean contractor(s).
5. Pay for all work initiated on or between 1 January of a given year and 31 December of the same year until the work is completed, to include resolution of any claims made by the contractor(s) in the performance of the contract(s). Payment, however, shall not exceed the total LCS program amount agreed to for the appropriate calendar year.
6. Incorporate the payment provisions set forth in Article V, paragraphs 3 and 5 above in any written agreement or understanding with contractor(s) that establishes payment procedures.
7. Process all cost sharing contract draft(s) within thirty (30) days after receipt from USFK unless this period is extended by the mutual consent of the parties.
8. Remit payment to ROKAF for MAGNUM or ROKA for SALS-K upon receipt of vouchers from USFK, ACoS, J4. Remit payment to ROK Office of National Railroads upon receipt of rail bills from USFK, ACoS, J4.
9. Exercise a carry-over process of funds into the subsequent calendar year for supplies and services that are on contract but cannot be delivered by December 31 of the current calendar year, as submitted by USFK in accordance with Article IV, paragraph 5.

ARTICLE VI – FUNDING

Annual fund allocations are specified in Attachment 2-XX-Y to this IA, where "XX" is the last two digits of the calendar year and "Y" is a sequential number within that year, beginning with "1". From time to time, the executive agents may adjust funding between projects, provided the total annual amount for all LCS is not increased. Adjustments to allocations shall be memorialized in additional attachments to this IA. If funds need to be converted from dollars to won or won to dollars due to reallocations between SALS-K and the other LCS projects, the conversion rate shall be the basic exchange rate set by the Bank of Korea on the date of last signature on the initial annual Attachment 2 for that year.

ARTICLE VII - CLAIMS

USFK is not liable nor obligated to pay for Korean contractor(s) claims, to include billing invoices, which arise pursuant to the contracts to provide USFK with logistics cost sharing equipment, supplies, and services, provided that the amount of such claims does not exceed the amount allocated to that project. Should USFK pay such claim, the ROK MND shall fully reimburse USFK for that payment up to the total LCS program amount agreed to for that calendar year.

ARTICLE VIII - DISAGREEMENTS

All disagreements arising from this IA shall be referred to the executive agents for the parties for resolution. Disagreements shall be resolved by negotiation and not referred to an international tribunal or international third party for resolution or settlement. Disagreements not resolved by the executive agents shall be submitted to the SOFA Joint Committee for final resolution.

ARTICLE IX - LANGUAGE

This IA is executed in four copies, two in English and two in Korean with both language texts being equally authentic.

ARTICLE X - AMENDMENTS

Amendments to this IA may be made with the consent of the parties at any time. Requests for amendment shall be made in writing by the requesting party at least 60 days in advance of the desired date of amendment. In the event such a request is made, the parties shall promptly enter into negotiations. Amendments shall be in writing, signed by the parties, and shall be appended to this IA.

ARTICLE XI - DURATION

This IA shall remain in full force and effect for the life of the SMA referred to in Article I and any successor cost sharing agreements or until terminated by mutual agreement. Either party may terminate this IA at the end of a calendar year by giving the other party a ninety (90)-day advance written notice. However, termination of this IA shall not affect any work or project initiated and in progress in accordance with this IA.

ARTICLE XII - EFFECTIVE DATE

This IA shall enter into force on the date of the last signature below and shall supersede all previous LCS IAs between the parties

FOR UNITED STATES FORCES, KOREA



C. V. CHRISTIANSON
Brigadier General, USA
Assistant Chief of Staff, J4

Date 22 Apr 02
Seoul, Korea

FOR THE MINISTRY OF NATIONAL DEFENSE
OF THE REPUBLIC OF KOREA



CHOI, IN SU
Major General, ROKA
Director General, Logistics Management Bureau, MND

Date 02. 4. 23
Seoul, Korea

Categories and Scope of the Logistics Cost Sharing (LCS) Program

This document constitutes the attachment to the IMPLEMENTING AGREEMENT BETWEEN THE UNITED STATES FORCES, KOREA AND THE REPUBLIC OF KOREA, MINISTRY OF NATIONAL DEFENSE CONCERNING LOGISTICS COST SHARING, as stipulated in ARTICLE II of said agreement.

1. Single Ammunition Logistics System-Korea (SALS-K): services include ammunition storage, security, maintenance, disposal and transportation, to include receiving/shipping operations at the port, in accordance with the MOU on SALS-K Reimbursement Rate, dated 15 October 1992, or superseding agreements.
2. Munitions Activities Gained through Negotiations Under US and ROK MOA (MAGNUM): services include ROK storage services and maintenance of USAF munitions stored in ROKAF owned facilities, in accordance with the MOU between the United States Air Force (USAF) and the ROK Air Force (ROKAF) concerning the Storage of USAF Munitions in the ROKAF Munitions Facilities, dated 19 April 1996, or superseding agreements.
3. Repair and Maintenance Services: repair and maintenance of aircraft, ground equipment, and other equipment owned by the US and stationed in Korea or, as an exception, with the specific agreement of the parties, stationed outside Korea and dedicated primarily to supporting OPLAN 5027.
4. War Reserve Materiel (WRM) Maintenance: equipment to be maintained includes aircraft fuel tanks, bomb loading systems, ancillary loading tools, multifunctional loading systems, aircraft ground equipment, vehicles, readiness materiel to equip bases, basic materiel for unit sustainment, cooking equipment and utensils, and medical equipment, which are stored at Chungju, Gimhae, Gwangju, Suwon, Daegu, Osan, and Gunsan Air Bases.
5. Line-Haul: transportation services for cargo and passengers by Office of National Railroads and Korean transportation contractors, and limited to services provided in the Republic of Korea.
6. Vehicle, equipment, and materiel purchases: purchases of Korean-made vehicles (non-tactical and rail car), equipment and materiel (e.g., repair parts for heavy equipment and vehicles, equipment/supplies/maintenance tools for warehousing storage systems, munitions pallets and maintenance tools, vehicle maintenance and repair tools and equipment, mortuary affairs equipment and supplies, portable building structures, items to enhance force protection of logistics assets, War Reserve Materiel (WRM) repair and replacement parts, etc.) for the use of USFK.
7. Trans-Korea Pipeline (TKP) Follow-On Bulk Fuel Support: prorated TKP-South-North Pipeline (SNP) tie-in connection service.

FOR THE UNITED STATES FORCES KOREA



C.V. CHRISTIANSON
Brigadier General, USA
Assistant Chief of Staff, J4

DATE 22 APR 02
Seoul, Korea

FOR THE MINISTRY OF NATIONAL DEFENSE
OF THE REPUBLIC OF KOREA



CHOI, IN SU
Major General, ROKA
Director General, Logistics Management Bureau,
MND

DATE 02. 4. 23
Seoul, Korea

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AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND THE REPUBLIC OF KOREA

CONCERNING SPECIAL MEASURES RELATING TO

ARTICLE V OF THE AGREEMENT UNDER ARTICLE IV

OF THE MUTUAL DEFENSE TREATY BETWEEN

THE UNITED STATES OF AMERICA AND THE REPUBLIC OF

KOREA REGARDING FACILITIES AND AREAS AND THE STATUS

OF

UNITED STATES ARMED FORCES IN THE REPUBLIC OF KOREA

The United States of America and the Republic of Korea (hereinafter referred to as "the Parties") have agreed to take the following special measures relating to Article V of the "Agreement under Article IV of the Mutual Defense Treaty between the United States of America and the Republic of Korea regarding facilities and areas and the status of United States Armed Forces in the Republic of Korea" (hereinafter referred to as "the Status of Forces Agreement"), signed at Seoul on July 9, 1966, as amended, which sets forth the principles on the sharing of expenditures incident to the maintenance of the United States Armed Forces in Korea:

ARTICLE I

The Republic of Korea shall bear, for the duration of this Agreement, as a special measure relating to Article V of the Status of Forces Agreement, an equitable part of the expenditures for the employment of Korean employees of the United States Armed Forces in Korea and of other expenditures associated with the stationing of the United States Armed Forces in Korea. The contribution of the Republic of Korea shall be categorized into Labor Cost Sharing, Republic of Korea Funded Construction, Combined Defense Improvement Projects and Logistics Cost Sharing.

ARTICLE II

The duration of this Agreement shall be three years. The cost-sharing contribution of the Republic of Korea for 2002 is 58.8 Million US Dollars plus 536.8 Billion Korean Won. The 2003 and 2004 contribution shall be determined by increasing the contribution of the previous year by 8.8 percent plus the inflation rate (Gross Domestic Product Deflator) published by the Korea National Statistical Office for the year before the previous year. Each year's Labor Cost Sharing Contributions shall be made in three equal payments on or before March 1, May 1 and July 1 of that year. Republic of Korea Funded Construction payments shall be made in two equal installments with 50 percent paid on March 1 of the program year and 50 percent paid one year later (March 1). Implementation of this Agreement shall be in accordance with a separate implementation arrangement to be executed concurrently between the concerned authorities of the Parties. Contributions shall consist of cash support for Labor Cost Sharing as well as a certain

proportion of Republic of Korea Funded Construction and in-kind support for Combined Defense Improvement Projects, Logistics Cost Sharing and a certain proportion of Republic of Korea Funded Construction. The Korean Won portion of the total contribution shall be 88 percent for the duration of this Agreement.

All materials, supplies, equipment and services provided as part of the in-kind contribution shall be exempt from Republic of Korea taxes, or provided on an after-tax basis. Such materials, supplies, equipment, and services procured by the Government of the Republic of Korea shall be exempt from special excise taxes and value added taxes. In the case of value added taxes, the zero rate shall be applied. If taxes are levied against any such materials, supplies, equipment or services, payment of such taxes shall not be made from cost-sharing funding.

ARTICLE III

This Agreement shall enter into force upon exchange of written notification by the Parties that their respective domestic legal procedures necessary for the entry into force of this Agreement have been completed with effect from January 1, 2002, and shall remain in force until December 31, 2004.

ARTICLE IV

The Parties may consult on all matters regarding this Agreement through the Joint Committee provided for in Paragraph 1 of Article XXVIII of the Status of Forces Agreement, or through the Joint Cost-Sharing Committee, which is composed of representatives appointed by the Parties.

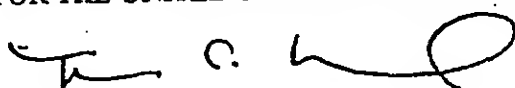
ARTICLE V

This Agreement may be revised or amended in writing by mutual consent. The revision or amendment of this Agreement shall enter into force on the date when the Parties exchange written notifications that their domestic legal requirements for such revision or amendment have been fulfilled.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed
this Agreement.

DONE at Seoul, this 4th day of April, 2002, in
duplicate in the English and Korean languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA



FOR THE REPUBLIC OF KOREA

